

# Emergency Rules

## Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION Division 100—Missouri Commission for the Deaf and Hard of Hearing Chapter 200—Board for Certification of Interpreters

### EMERGENCY AMENDMENT

**5 CSR 100-200.045 [Provisional] Temporary Restricted Certification in Education.** The commission is amending the title, Purpose and all sections of the rule.

**PURPOSE:** This emergency amendment changes the name of the “Provisional” Restricted Certification in Education to the “Temporary” Restricted Certification in Education everywhere that it appears in the rule, and similarly changes the abbreviation “PRCED” to “TRCED” throughout the rule. This emergency amendment allows public school districts to nominate uncertified and unlicensed persons for the TRCED so long as those persons attest that they will begin the application process for certification in the Missouri Interpreters Certification System (MICS) within thirty (30) days, will take the written test in the MICS within sixty (60) days, will take the performance test in the MICS within thirty (30) days after passing the written test, and will submit an application for an interpreting license pursuant to the provisions of 209.319 to 209.339, RSMo within thirty (30) days from the date of issuance of the TRCED. This emergency amendment makes a TRCED for current certification and license holders good for a term of three (3) years, with a possible extension of another three (3)-year term if and only if the holder is reevaluated during the first term of issuance and achieves the next higher level of MICS certification. This emergency amendment makes a TRCED for persons who are not currently certified and license holders good for a term of one (1) year. This emergency amendment also makes a person eligible for a TRCED twice during their lifetime, limits TRCED holders to interpreting only in preschool, elementary and

secondary school settings, and provides for possible revocation of the certification if the holder is later found to have misrepresented anything while applying for the certification.

**EMERGENCY STATEMENT:** This rule specifies the procedures that must be followed in order for an individual interpreter to be granted a Temporary Restricted Certification in Education. This rule is necessary in order to ensure that public schools in Missouri can secure the services of an adequate number of sign language interpreters during the 2004–2005 school year so as to meet the needs of deaf and hard of hearing students who require interpreters.

In 1997, when the rules for implementing the Missouri Interpreters Certification System were first adopted, rule 5 CSR 100-200.170 was approved by the Missouri Commission for the Deaf and Hard of Hearing. 5 CSR 100-200.170 specified that in order for interpreters to provide services in Missouri public schools they needed to be certified at an Intermediate level or higher, or hold a Restricted Permit in Education—since renamed to a Restricted Certification in Education (RCED). At that time it was decided to delay the effective date of the rule in order to give educational interpreters an opportunity to improve their skills so as to meet the required certification level. Thus, 5 CSR 100-200.170 did not become effective until July 1, 2003. All during those six (6) years interpreters certified at any level could legally provide services in Missouri schools.

During the spring of 2003, the State Committee of Interpreters, within the Division of Professional Registration, adopted a rule (4 CSR 232-3.010(3)) that specified that “An interpreter shall not interpret in a setting beyond his or her certification level, as provided for in 5 CSR 100-200.170.” If an interpreter were to do so, it would be a violation of the Ethical Rules of Conduct for Interpreters, and

would constitute a sufficient reason for disciplinary action being taken against the interpreter’s license. So, as of July 1, 2003, interpreters who were certified at only the Apprentice or Novice level could no longer legally provide interpreting services in Missouri schools.

This situation sometimes presented public school districts in Missouri with a serious problem. Federal law, namely the Individuals with Disabilities Education Act (IDEA), required that school districts provide special education services for students with disabilities, and for many deaf and hard of hearing students that normally takes the form of sign language interpreters. And Missouri law said that school districts could not hire an interpreter unless he or she was certified at the Intermediate level or higher, or had an RCED certification. That presented an immediate difficulty for some schools that were unable to find legally qualified educational interpreters even though they had searched extensively. Those school districts would have to either 1) not provide interpreting services for some deaf and hard of hearing students, and thus be in noncompliance with federal law, or 2) hire interpreters who were certified below the Intermediate level, and thus violate Missouri law. The first option would present an immediate danger to the welfare of some deaf and hard of hearing students by depriving them of legally required special education services and communications access to their educational curricula. And either option would result in schools violating either federal or state law, and there is certainly a compelling governmental interest to see that this does not happen, as well as to see that deaf and hard of hearing students around the state receive appropriate special education services.

Thus a rule (5 CSR 100-200.045—Provisional Restricted Certification in Education) was adopted during the past year that would allow schools to hire persons who were certified at the Novice and Apprentice levels for a relative short period of time. It now appears, however, that some schools still occasionally face the problem of not being able to find and hire an interpreter who already holds any kind of certification. Thus, this emergency amendment to rule 5 CSR 100-200.045 is being adopted to allow public school districts that are unable to secure the services of interpreters who are already certified and licensed to hire uncertified and unlicensed interpreters for a period of one (1) year. Furthermore, additional time is being given to interpreters who have either an Apprentice or Novice certification to improve their skills to meet state statutory requirements by making the Temporary Restricted Certification in Education for those individuals good for a term of three (3) years, with the possibility of being extended for another three (3) years if the interpreter in question takes the Missouri Interpreters Certification System performance test during the first three (3) years and achieved a higher certification level than they held when they tested. This will give school districts the needed flexibility to satisfy their interpreting needs for the foreseeable future.

In developing this emergency amendment, representatives of the interpreting community, the deaf and hard of hearing community, and local public school administrators were consulted. In addition, the rule was discussed and approved by the members of the Board for Certification of Interpreters and the members of the Missouri Commission for the Deaf and Hard of Hearing. The commission believes that this rule is fair to all interested persons and parties under the circumstances.

The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. This emergency amendment was filed May 6, 2004, effective June 1, 2004, and expires November 27, 2004.

**PURPOSE:** This rule outlines how an individual may be granted a [Provisional] Temporary Restricted Certification in Education for interpreting in only elementary and secondary school settings.

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# Emergency Rules

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(1) The *[board]* **Board of Certification of Interpreters (BCI)** may grant a *[Provisional]* **Temporary Restricted Certification in Education (PRCED) TRCED** in emergency situations as determined on a case-by-case basis. The *[board]* **BCI** *[shall]* **may** grant a *[PRCED] TRCED* to an individual when all of the following conditions are met:

(A) The person applying for a *[PRCED] TRCED* must be nominated by a local public school district;

(C) *[The individual nominated must possess a current valid certification in the MICS at either the Novice or Apprentice level, and must hold a current valid license to provide interpreting services issued by the Missouri State Committee of Interpreters; and]* **The individual nominated must either:**

1. Possess a current valid certification in the MICS at either the Novice or Apprentice level, and hold a current valid license to provide interpreting services issued by the Missouri State Committee of Interpreters; or

2. Attest that he or she will submit an application for certification in the Missouri Interpreters Certification System (MICS) within thirty (30) days from the date of issuance of the TRCED; attest that he or she will take the written test in the MICS within sixty (60) days from the date of issuance of the TRCED; attest that he or she will take the performance test in the MICS within thirty (30) days from the date of notification that they have passed the written test, and attest that he or she will submit an application for an interpreting license pursuant to the provisions of 209.319 to 209.339, RSMo within thirty (30) days from the date of issuance of the TRCED. Any of these requirements may be waived by the BCI upon presentation of satisfactory evidence that they have already been met.

(2) A *[PRCED] TRCED* shall be issued within ten (10) business days from the date the application is received in the office of the Missouri Commission for the Deaf and Hard of Hearing.

(3) *[A PRCED is good for only one (1) school year. It can be extended for one (1) more school year only if the holder is reevaluated during the first year of issuance and achieves the next higher level of MICS certification.]* A TRCED that is issued to a person who then has a current MICS certification and license shall be good for a term of three (3) years. It can be extended for an additional term of three (3) years if and only if the holder is reevaluated during the first term of issuance and achieves the next higher level of MICS certification.

(4) A TRCED that is issued to a person who does not then hold a current MICS certification and license is good for only one (1) year.

*[[4]]* (5) A *[PRCED] TRCED* can be granted to a given individual *[only once]* a maximum of two (2) times during their lifetime, once when they have no other MICS certification and once when they have either a Novice or Apprentice certification.

*[[5]]* (6) A holder of a *[PRCED] TRCED* is limited to providing interpreting services only in **preschool**, elementary and secondary *[school(s) in the local public school district that nominated them]*, **school settings** or as allowed by any other valid Missouri certification or license held by the individual.

*[[6]]* (7) A *[PRCED shall]* TRCED **may** be revoked *[when the holder ends their employment with the nominating school district or]* by the board if the person makes any **misrepresentations pursuant to paragraph (1)(C)2. above**, or if the person commits any of the actions listed in 209.317.1(1)–(5), RSMo, or 209.334.2(1)–(14), RSMo. It *[shall]* **may** also be revoked by the

**board** if the holder breaks any of the Ethical Rules of Conduct for interpreters defined in 4 CSR 232-3.010, or fails to obtain the necessary Continuing Education Units required for certification maintenance as detailed in 5 CSR 100-200.130.

*AUTHORITY: sections 209.292(1), RSMo Supp. 2003 and 209.295(1), (3) and (8), and 209.309, RSMo 2000. Emergency rule filed Aug. 8, 2003, effective Aug. 18, 2003, expired Feb. 14, 2004. Original rule filed Aug. 11, 2003, effective Feb. 29, 2004. Emergency amendment filed May 6, 2004, effective June 1, 2004, expires Nov. 27, 2004. An emergency amendment covering this same material will be published in the June 15, 2004 issue of the Missouri Register.*